

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2013-208-E - ORDER NO. 2013-826
NOVEMBER 26, 2013

IN RE: Application of South Carolina Electric & Gas Company for Approval to Continue Demand-Side Management Programs and Included Rate Rider, and for Approval of Revised Portfolio of Energy Efficiency Programs)	ORDER APPROVING SCE&G'S REQUEST FOR APPROVAL TO CONTINUE DSM PROGRAMS AND INCLUDED RATE RIDER AND FOR APPROVAL OF REVISED PORTFOLIO OF DSM PROGRAMS
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Introduction

This matter comes before the Public Service Commission of South Carolina (the "Commission") pursuant to an Application by South Carolina Electric & Gas Company ("SCE&G" or the "Company"), under the authority of S.C. Code Ann. § 58-37-20 (Supp. 2012), for approval to continue providing Demand Side Management ("DSM") programs and the included annual rate rider to allow the Company to recover its costs and net lost revenue associated with its DSM programs plus an appropriate incentive for investing in the DSM programs, and also for approval of a revised portfolio of DSM programs.

SCE&G filed its Application on May 31, 2013. A timely Petition to Intervene was received from the Southern Alliance for Clean Energy ("SACE") and the South Carolina Coastal Conservation League ("CCL") (collectively referred to as the "SACE/CCL"). Wal-Mart Stores, East, LP and Sam's East, Inc. (together "Wal-Mart") and the South Carolina Energy Users Committee ("SCEUC") were allowed to intervene

out of time without objection. The South Carolina Office of Regulatory Staff (“ORS”) was automatically a party to this proceeding pursuant to S.C. Code Ann. § 58-4-10(B).

On September 19, 2013, SCE&G prefiled the direct testimony of witnesses Angie H. Webb, Kenneth R. Jackson, and David K. Pickles. On October 3, 2013, ORS prefiled the direct testimony of George W. Evans; SACE/CCL prefiled the direct testimony of Natalie Mims; Wal-Mart prefiled the direct testimony of Kenneth E. Baker; and SCEUC prefiled the direct testimony of Kevin W. O'Donnell. On October 10, 2013, SCE&G witnesses Jackson and Pickles prefiled rebuttal testimony. On October 21, 2013, SACE/CCL witness Mims prefiled surrebuttal testimony.

On October 21, 2013, an Agreement was filed reflecting a settlement (“Settlement Agreement”) among Wal-Mart, SCE&G, SCEUC, and ORS (the “Settling Parties”). SACE/CCL was not a party to the Settlement Agreement. In the Settlement Agreement, the Settling Parties set forth their agreements regarding the suite of DSM programs proposed by the Company, the treatment of program costs, net lost revenue, the shared savings mechanism, the opt-out mechanism, and the pertinent review period.

In accordance with the Commission’s responsibilities, a hearing to consider the Application was held on October 24, 2013. At the hearing, SCE&G was represented by K. Chad Burgess, Esquire, and Mitchell Willoughby, Esquire. ORS was represented by Nanette S. Edwards, Esquire. SACE/CCL was represented by J. Blanding Holman, IV, Esquire, and Myra Blake, Esquire, who was properly admitted *pro hac vice*. Wal-Mart was represented by Stephanie Roberts, Esquire. SCEUC was represented by Scott Elliott, Esquire.

During the hearing, the Settlement Agreement was entered into the record as Hearing Exhibit No. 1 without objection and is attached hereto and incorporated herein as Order Exhibit No. 1. During the hearing, SCE&G witnesses Jackson and Pickles, SCEUC witness O'Donnell, and ORS witness Evans presented testimony in support of the Settlement Agreement.

At the hearing, SCE&G presented the testimony of witnesses Webb, Jackson, and Pickles with respect to the Application and entered into the record Hearing Exhibit No. 2 (DKP-1) and Hearing Exhibit No. 3 (KRJ-1 & KRJ-2). SACE/CCL presented the testimony of Ms. Mims and entered into the record Hearing Exhibit No. 4 (Mims Exs. 1 & 2). Wal-Mart presented the stipulated testimony of Mr. Baker and entered into the record Hearing Exhibit No. 5 (KEB-1 & KEB-2). SCEUC presented the testimony of Mr. O'Donnell and entered into the record Hearing Exhibit No. 6 (O'Donnell Appendix). ORS presented the testimony of Mr. Evans and entered into the record Hearing Exhibit No. 7 (ORS-GWE-1).

I. Basis for SCE&G's Application.

In Order No. 2010-472, filed in Docket No. 2009-261-E, the Commission approved a suite of nine (9) residential and two (2) commercial and industrial DSM programs proposed by SCE&G based on the terms of the Company's application as modified by two settlement agreements filed in that case: the General Settlement Agreement and the Opt-Out Settlement Agreement. The Commission found that "SCE&G's proposed suite of DSM programs represented an appropriate and reasonable approach for implementing DSM measures that are in the public interest and are

consistent with S.C. Code Ann. § 58-37-20.” Order No. 2010-472, p. 8. The Commission further found that “[t]he suite of programs appears to be helpful in allowing the public to participate in energy efficiency and demand side management activities, thereby affording consumers an opportunity to manage their electricity consumption.” Order No. 2010-472, p. 8.

In accordance with S.C. Code Ann. § 58-37-20, the Commission approved a rate rider allowing the Company to recover its costs and obtain a reasonable rate of return on its investment in qualified DSM programs sufficient to make those programs at least as financially attractive as construction of new generating facilities. In the rate rider, the Commission authorized the Company to recover its net lost revenue. The Commission further authorized the Company to recover the reasonable and prudent costs incurred in implementing and operating the DSM programs, and approved the amortization of these costs over a five-year period with unrecovered balances bearing carrying costs at the Company’s weighted average cost of capital. Order No. 2010-472, pp.10-13.

Also, in order to make SCE&G’s DSM programs at least as financially attractive as construction of new generation facilities, and again consistent with S.C. Code Ann. § 58-37-20, the Commission approved a shared savings incentive equal to 6% multiplied by the estimated net benefits of each energy efficiency program using the Utility Cost Test. Order No. 2010-472, p. 13.

Since approval of SCE&G’s DSM programs by Order No. 2010-472, SCE&G has provided annual updates on its DSM programs and petitioned the Commission for annual updates to its DSM Rate Rider in accordance with Order No. 2010-472. *See* Docket Nos.

2011-49-E, 2012-55-E, and 2013-50-E. In each instance, the Commission has approved the Company's updated Rate Rider. *See* Order No. 2011-390, p.3 (May 24, 2011), Order No. 2012-300, p.3 (April 25, 2012), and Order No. 2013-266, p.4 (April 30, 2013). The Company also submitted to the Commission an Evaluation, Measurement, and Verification ("EM&V") report for Program Year 1 (December 1, 2010-November 30, 2011) in May 2012 and for Program Year 2 (December 1, 2011-November 30, 2012) in May 2013. The Company has not yet filed an EM&V report for Program Year 3, because that program year does not end until November 30, 2013.

Under the terms of the settlement agreements filed in Docket No. 2009-261-E, the authorization of the DSM programs extended for three program years beginning on December 1, 2010; that three-year period concludes on November 30, 2013, therefore, the Company is requesting Commission authorization to continue providing DSM programs after that date.

II. SCE&G's Proposed DSM Programs.

The Company is proposing a suite of eleven (11) DSM programs, nine (9) of which target the Company's residential customer class and two (2) of which target its commercial customer class. [Tr. p. 29, lines 15-19.] Company witness Webb testified that the "Company engaged ICF International to review and analyze the existing DSM programs and assist the Company in determining which existing DSM programs should be retained and which should be eliminated." [Tr. p. 30, lines 3-5.] As part of this analysis, ICF and the Company evaluated the cost-effectiveness of the current and potential programs and modeled projections for energy and demand savings, participation

levels, and cost-effectiveness. [Tr. p. 30, lines 6-9.] The Company also considered stakeholder input and feedback and comments made by the Intervenor in Docket No. 2013-50-E, which was the last annual update filed by the Company. [Tr. p. 30, lines 11-15.]

David Pickles, Senior Vice President of ICF, a consultant presented by the Company, explained that the primary objectives of ICF's analysis were to estimate load impacts of various DSM programs; compare the cost of those programs against the Company's generation, transmission, and distribution costs; and design and evaluate DSM programs based on an assessment of costs, customer participation, and the predicted level of use independent of the Company's implementation of the program. [Tr. p. 56, line 5–p. 57, line 3.] He further testified that, to accomplish this objective, ICF performed the following steps as part of its analytical process:

- (a) Establishing the demand and energy impacts of a broad range of DSM measures;
- (b) Screening individual measures for cost-effectiveness;
- (c) Bundling the measures that pass cost-effectiveness testing into programs;
- (d) Forecasting participation in each program, including estimation of the number of customers that would adopt each efficiency measure;
- (e) Costing of each program, including an estimation of customer incentives, administration, marketing, EM&V, and other necessary costs; and

(f) Screening program cost-effectiveness based on the bundled measures and program costs.

[Tr. p. 57, line 4-p.59, line 12.] Based on this analysis, which is described in greater detail in Hearing Exhibit No. 2 (DKP-1) and in Mr. Pickles' testimony, the Company selected the eleven (11) DSM programs for which the Company is requesting approval.

[Tr. p. 30, lines 1-15.]

Ms. Webb testified that the nine (9) proposed DSM programs targeted at the residential customer class include the continuation of eight (8) existing programs in substantially the same form. [Tr. p. 30, line 18-p.31, line 2.] In addition, the Company proposes to add an appliance recycling program to encourage the recycling of less-efficient appliances. [Tr. p. 31, lines 1-7.] And, the Company is eliminating the existing Heating & Cooling Efficiency Improvement Program due to low participation, but is including the more popular measures from that program—duct sealing, duct insulation, and complete duct replacement—in the Heating & Cooling and Water Heating Equipment Program. [Tr. p. 31, lines 8-22.] At the hearing, Ms. Webb testified that this program is being eliminated because the program was not cost-effective. [Tr. p. 129, lines 11-13.]

Ms. Webb also testified that the Company will continue providing both existing DSM programs targeted toward commercial and industrial customers, although these programs will be restructured into the Prescriptive and Custom elements of the Energy Wise for your Business program. [Tr. p. 32, lines 1-7.] The Company also proposes to make available the Small Business Direct Install program, which “provides cost-

effective, comprehensive retrofit services to small business customers on a turnkey basis.” [Tr. p. 33, lines 4-11.]

Ms. Webb testified that the “programs provide benefit to customers in all customer classes and provide a broad range of measures to support energy efficiency in new construction and in existing construction.” [Tr. p. 33, lines 14-16.] She also testified that “each of these programs will be coupled with a specific marketing plan that will further increase customer awareness of the importance of energy efficiency and add to the information value of the portfolio of programs as a whole.” [Tr. p. 33, lines 19-22.] In conjunction with ICF, the Company also conducted a careful analysis to ensure that each program will provide sufficient benefits if it operates as intended. [Tr. p. 34, lines 1-8.]

Ms. Webb testified that, based on its analysis, SCE&G “has determined that these nine residential and two commercial and industrial DSM programs represent a balanced suite of programs that are reasonably practicable for the Company to implement so as to encourage customer participation; are technically and economically justified; and have a reasonable likelihood of providing savings to customers and the system.” [Tr. p. 35, lines 3-13.] Mr. Pickles also testified in support of the proposed suite of DSM programs:

In my professional opinion, SCE&G’s proposed DSM programs reflect an appropriate and aggressive commitment to continuing and enhancing the effectiveness of the DSM programs provided by the Company. Based on the analysis performed by ICF, we believe these programs represent a balanced suite of programs that are reasonably practicable for the Company to implement; encourage customer participation; are technically and economically justified; and have a reasonable likelihood of providing savings to customers and the system.

[Tr. p. 69, lines 4-11.]

As part of the Settlement Agreement, the Settling Parties agreed that the revised portfolio of DSM Energy Efficiency programs filed by SCE&G should be approved as filed in the Application. [Sett. Agmt. ¶ 2.] The Settling Parties further agreed that, “[c]onsistent with Commission Order No. 2010-472, ...SCE&G will retain the authority and flexibility to modify, amend, terminate and/or add any measure or program to its suite of programs without the requirement of seeking prior Commission approval to do so,” and that the Company will report such modifications or changes to the Commission as part of its annual review filings. [Sett. Agmt. ¶ 2] The Commission previously found that “flexibility in modifying this suite of programs requested by SCE&G will aid the Company in implementing its DSM programs in an efficient manner and will provide it with the ability to adjust these programs based on evolving market conditions and information.” [Order No. 2010-472, p. 9.]

And, although SACE/CCL did not participate in the Settlement Agreement, Ms. Mims, who testified on behalf of SACE/CCL, commended “the Company for adding two new programs to its proposed portfolio, Appliance Recycling and Small Business Direct Install.” [Tr. p. 183, lines 21-22.] She also testified in her prefiled testimony that the suite of DSM programs proposed by the Company should be approved by the Commission. [Tr. p. 183, lines 23-24.] Additionally, ORS witness Evans testified that he had no problem with the way SCE&G has structured its programs, but recommends that the Company investigate the possibility of adding cost effective solar options. [Tr. p. 272, lines 1-13; Tr. p. 278, lines 9-11.]

Although suggesting that the Company should do more, Ms. Mims testified only that “[a] good starting point would be to seek to maintain the level of participation and energy savings that the Company is currently achieving.” [Tr. p. 184, lines 10-16.] She further testified that the Company should increase participation, include more measures, and offer additional programs. [Tr. p. 184, lines 1-3.] And, she testified that the Company “should consider additional programs that serve low- and fixed-income customers.” [Tr. p. 188, lines 3-4.] She also recommended expanding existing measures into new markets and direct marketing to specific customer types. [Tr. p. 185, lines 1-22.] However, Ms. Mims provided no specific analysis or details to support her recommendations. With respect to Ms. Mims’ testimony regarding DSM programs for low-income participants, the Company has agreed as part of the Settlement Agreement to “review additional DSM Energy Efficiency Programs that are designed specifically for low-income participants.” [Sett. Agmt. ¶ 2.]

For the reasons set forth above, the Commission finds that SCE&G’s proposed suite of DSM programs represents an appropriate and reasonable approach for implementing DSM measures that is in the public interest and is consistent with S.C. Code Ann. § 58-37-20. All parties agree that the proposed suite of programs should be approved and the testimony of SCE&G witnesses Webb and Pickles support the reasonableness of the structure and focus of these programs. The proposed DSM programs afford customers an opportunity to manage their electricity consumption through participation in energy efficiency and demand side management programs. The

Commission therefore finds that the proposed suite of DSM programs should be and is approved.

The Commission also finds that allowing SCE&G to retain the authority to modify its suite of DSM programs as appropriate will aid it in implementing its DSM programs in an efficient manner. Thus, if SCE&G identifies a cost-effective DSM program subsequent to this Order that would be beneficial in its service territory, then it may include the program as part of its DSM offerings. The Commission directs that SCE&G report any modifications to the Commission promptly, and, also, include information regarding any and all such modifications in its annual filing with the Commission and ORS.

III. Rate Rider Mechanism.

Through its Application, as modified by the Settlement Agreement, the Company seeks approval of a rate rider to allow it to recover (1) its actual program costs associated with developing, implementing, and administering its DSM programs, with the amortization of those costs over five years and unrecovered balances bearing carrying costs at the Company's weighted average cost of capital; (2) net lost revenue resulting from these programs based on a rolling three-year period; and (3) a 6% shared savings incentive. *See* S.C. Code Ann. § 58-37-20. The Company is not presently requesting any changes to the DSM rates currently in effect. [Tr. p. 18, lines 16-18.]

A. Program Costs.

S.C. Code Ann. § 58-37-20 makes provisions for an electrical utility to be permitted to recover its costs and obtain a reasonable rate of return on its investment in

qualified DSM programs sufficient to make those programs at least as financially attractive as construction of new generating facilities. Accordingly, as reflected in Order No. 2010-472, the Commission approved, as reasonable and in the public interest, allowing SCE&G to recover its reasonable and prudent costs incurred to implement and operate the DSM programs, including administrative and general costs and overheads. The Commission also approved allowing SCE&G to defer these costs as a regulatory asset and, for purposes of determining the rate rider recovery amount, to amortize these costs over a five-year period with carrying costs at the Company's weighted average cost of capital.

The Company has proposed to maintain the existing cost-recovery mechanism. The Settling Parties agreed that "SCE&G shall be allowed to defer and amortize into the rate rider calculation all prudently incurred costs for the programs over five (5) years with carrying costs at the Company's weighted average cost of capital." [Sett. Agmt. ¶ 3.a.] SACE/CCL witness Mims testified that the Company is entitled to recover the costs of administering the DSM programs, but proposed ending the amortization period in favor of immediate program cost recovery. [Tr. p. 202, line 21-p. 203, line 14.]

Mr. Jackson testified that, if cost amortization is ended, "SCE&G's customers would experience an increase in the rate they pay for the Company's DSM programs because SCE&G would be recovering all DSM program costs in one year." [Tr. p. 113, lines 10-12.] He testified at the hearing that, if the five-year amortization is ended, then the rate customers pay for costs would increase from the current amount of \$1.46 per 1,000 kilowatt hours ("kWh") to \$3.62 per 1,000 kWh. [Tr. p. 155, lines 7-17).] And, Mr.

Jackson testified that the Company seeks to recover its costs over a five-year period in part to provide rate stability for customers [Tr. p. 85, lines 1-6.]

Mr. Jackson also testified in his direct and rebuttal testimony that “SCE&G anticipates that the reasonable and prudent costs associated with the DSM programs provided by the Company will continue to increase and is concerned about the impact upon its customers.” [Tr. p. 113, lines 12-14; *see also* Tr. p. 92 lines, 5-11.] Mr. Jackson explained that, “[i]n an ongoing effort to maintain costs at a manageable level while fully exploring energy efficiency and conservation initiatives, the Company believes that it may be necessary to evaluate other options and alternatives or make further modifications to existing and proposed DSM programs.” [Tr. p. 92, lines 15-18.] Mr. Jackson also testified that SCE&G “remains committed to providing DSM programs in an efficient and cost-effective manner.” [Tr. p. 92, lines 19-20.] At the hearing, he testified that wind, solar, and other renewable sources of energy are being evaluated as part of the Company’s commitment to energy efficiency and conservation initiatives. [Tr. p.154, lines 14-23.]

The Commission finds that it is reasonable, in the public interest, and in accordance with S.C. Code Ann. § 58-37-20 that SCE&G be allowed to continue recovering all reasonable and prudent costs incurred in implementing and operating the DSM programs, including administrative and general costs and overhead. The Commission also finds it reasonable and in the public interest to allow the Company to continue to defer these costs as a regulatory asset and, for purposes of calculating the rate rider recovery amount, to amortize these costs over a five-year period with the

unrecovered balance of these costs accruing carrying costs at the Company's weighted average cost of capital. The Commission finds that the five-year amortization period is a reasonable balancing of the requirements of the statute and of the needs and interest of the Company in the timely recovery of DSM expenses with the interests of customers in spreading out the recovery of these costs over time and in maintaining rate stability.

B. Net Lost Revenue.

With regard to net lost revenue, S.C. Code Ann. § 58-37-20 makes provisions for the net income of an electrical utility after implementation of specific cost-effective energy conservation measures to be at least as high as the net income would have been if the energy conservation measures had not been implemented. Accordingly, as reflected in Order No. 2010-472, the Commission approved as reasonable, in the public interest, and fully consistent with S.C. Code Ann. § 58-37-20 that SCE&G be allowed to recover net lost revenue as set forth in the General Settlement Agreement filed in Docket No. 2009-261-E.

In the Settlement Agreement in this proceeding, the Settling Parties agreed as follows:

[R]ecovery of net lost revenues through the rate rider shall continue as set forth in Commission Order No. 2010-472, except that recovery of net lost revenues through the rate rider shall be limited to a rolling three (3) years. Recovery of net lost revenues pertaining to a group of measures adopted by customers in prior program years shall cease upon the implementation of new retail electric rates in a general rate case proceeding to the extent that those new rates explicitly or implicitly allow the Company to recover the net lost revenues associated with the implementation of those measures in those prior periods.

[Sett. Agmt. ¶ 3.b.] Mr. Jackson testified that the Company will continue to recover net lost revenue, with the exception that recovery of net lost revenue now will be limited to a rolling three years. [Tr. p. 85, lines 7-13.] Although SACE/CCL were not parties to the Settlement Agreement, Ms. Mims proposes in her testimony that net lost revenue be recovered only for a period of three years or “until the Commission approves an alternative recovery mechanism or new rates are established in a general rate case or comparable proceeding.” [Tr. p. 203, lines 15-19.] In her surrebuttal testimony, Ms. Mims makes clear that the focus of SACE/CCL is that net lost revenue recovery should be limited to three years. [Tr. p. 219, line 10-p. 220, line 7.] Mr. Evans testified at the hearing that basing the recovery of lost revenues on a rolling three year period will have a downward impact on rates. [Tr. p. 264, lines 3-8.]

Presently, SCE&G is allowed to recover all net lost revenue, which is defined as a “reduction in sales revenue net of fuel and variable operations and maintenance expense as a result of customer participation in each DSM program.” [Tr. p. 93, lines 2-6.] The Company projects reductions in sales revenue for each program year based on the South Carolina Measures Savings Database (“Measures Database”).¹ [Tr. p. 93, lines 7-12.] The Company then multiplies these lost sales by the appropriate net margin factors for each class of service. [Tr. p. 93, line 17-p. 94, line 1.] The net lost revenue is projected “by rate class on an annual basis.” [Tr. p. 94, lines 1-2.] When EM&V results become

¹ The Measures Database was developed by Morgan Marketing Partners on behalf of SCE&G, Duke Energy Carolinas, Duke Energy Progress, and Santee Cooper. This database “quantifies the likely impact on energy usage and demand related to a broad range of DSM measures and includes data and analysis specific to South Carolina’s customers and their usage patterns.” Order No. 2010-472, p. 14 n.1.

available for a program year, the Company recalculates the net lost revenue for that period and records it as an increase or decrease in the required revenue collections for the prospective recovery period. [Tr. p. 94, lines 3-14.] Mr. Jackson testified that the net lost revenue amounts will be reset if the Commission approves the implementation of new rates as a result of a general retail electric rate case. [Tr. p. 94, line 15-p. 95, line 3.]

The Company does not recover interest or carrying costs on the amount of net lost revenues. Order No. 2010-472, p. 12. The Company also does not recover net lost revenues for research and development activities or for any programs having a primary purpose to promote general awareness and education about energy efficiency issues and not the implementation of specific measures by customers. Order No. 2010-472, p.12.

The Commission finds that it is reasonable, in the public interest, and fully consistent with S.C. Code Ann. § 58-37-20 that SCE&G be allowed to recover net lost revenues under the same terms, conditions, and procedures presently in effect, except that recovery of lost revenues shall be based on and limited to a rolling three years. If new retail electric rates are approved by this Commission in a general rate case, the amounts reflected in the rate rider for net lost revenue will be reset to zero upon implementation of those new rates.

C. Shared Savings Incentive.

The Company proposes to continue without change the existing 6% shared savings mechanism. S.C. Code Ann. § 58-37-20 allows rates established by the Commission under its provisions to be sufficient to make the utility's DSM programs at least as financially attractive as construction of new generation facilities. Accordingly, in

Order No. 2010-472, the Commission approved the 6% shared savings incentive as reasonable. Order No. 2010-472, p. 14. The incentive is calculated for the measures in effect in a Program Year by multiplying the kWh and kW savings over the measurement units' lives by the annual per kWh and kW avoided costs used in calculating the initial incentive. [Tr. p. 95, lines 13-18.] The associated program costs for those measures then are subtracted after the yearly savings are discounted to present value. [Tr. p. 95, lines 18-21.] When EM&V results become available, SCE&G performs a true up to correct for any differences between the estimated and actual net program benefits "so that the shared savings incentive ultimately calculated for any particular program year is based on the actual net program benefits." [Tr. p. 96, lines 3-10.]

Consistent with Order No. 2010-472, p. 14, SCE&G amortizes the amount of the incentive over five years without interest or carrying costs and includes one year of amortization expense in the calculation of the annual rate rider. [Tr. p. 96, lines 14-16.] As is the case with the recovery of net lost revenue and as directed by Order No. 2010-472, p. 14, SCE&G does not recover an incentive for research and development activities or for any programs having a primary purpose to promote general awareness and education about energy efficiency issues and not the implementation of specific measures by customers. [Tr. p. 96, lines 10-14.]

Although the Settling Parties agreed to continuation of the 6% shared savings incentive under the same terms as presently in effect, SACE/CCL proposes to modify the shared savings incentive to "establish a predictable, performance-based incentive where the Company makes more if the customers save more." [Tr. p. 205, lines 18-20.] Ms.

Mims therefore proposed an incentive structure with the net benefits to be retained by SCE&G contingent upon the level of savings generated by the DSM programs. [Tr. p. 206, lines 1-20.]

Mr. Pickles testified that “structuring the incentive with tiers depending upon the level of energy savings experienced as a result of the DSM programs penalizes the Company twice—once through a lower incentive and again through a reduction in the percentage of recovery—and thus reduces the incentive to provide DSM programs to customers.” [Tr. p. 49, line 21-p. 50, line 2.] Mr. Pickles also testified that the “6% incentive is a reasonable mechanism by which to mitigate the potentially negative financial impacts and the risks associated with reduced sales experienced through effective DSM programs while at the same time providing customers with 94% of the savings generated by those programs.” [Tr. p. 48, line 22-p. 49, line 3.] Mr. Pickles concluded that “[s]tructuring the incentive in the form of goals or tiers would further undermine this incentive for the Company to provide the DSM programs.” [Tr. p.50, lines 9-11.]

The Commission finds that it is reasonable, in the public interest, and fully consistent with S.C. Code Ann. § 58-37-20 that SCE&G be allowed to continue recovering the 6% shared savings incentive without the institution of a tiered recovery system. S.C. Code Ann. §58-37-20 provides that an incentive must be provided to an electric utility investing in a DSM program that is “cost-effective, environmentally acceptable and reduce[s] energy consumption on demand.” Because SCE&G’s DSM programs meet these criteria, the Company is entitled to an incentive. The Commission

further finds that, as testified by Mr. Pickles, “a flat 6% incentive is appropriate because this incentive automatically reduces if the net program benefits are lower than projected.” [Tr. p. 49, lines 17-20.] The Commission finds that, structured in this manner, the incentive provides a reasonable incentive to SCE&G for its ongoing commitment to and investment in DSM programs.

IV. Evaluation, Measurement, and Verification Procedure.

In Order No. 2010-472, as reflected in the General Settlement Agreement filed in that proceeding, the Commission found that it was reasonable and in the public interest for SCE&G to conduct an EM&V review of its DSM programs. Ms. Webb testified that, pursuant to Order No. 2010-472, the Company engaged Opinion Dynamics Corporation to prepare its annual EM&V review. [Tr. p. 28, lines, 10-13.] As noted above, the EM&V reports for Program Years 1 and 2 have been submitted to the Commission and the Company will submit the EM&V Report for Program Year 3 on or before May 31, 2014. [Tr. p. 28, lines, 13-16.] Ms. Webb testified that the information from these reports is used to evaluate the performance of the existing programs and to structure the revised suite of DSM programs proposed in this proceeding. [Tr. p. 28, lines 16-18.] No party has challenged the existing EM&V process.

The Commission finds it reasonable and in the public interest for the Company to continue conducting an annual EM&V review of its DSM programs on the same terms and conditions as those presently in effect. The Company is directed to file an EM&V report with the Commission and ORS no later than six months after the end of each Program Year.

V. Annual Filings.

The Company has requested to continue the present practice of annual reporting to the Commission. SCE&G witness Jackson testified that, as currently structured, each program year begins on December 1 and ends on November 30 of the following year. [Tr. p. 96, lines 21-22.] The Company requests to continue the present practice under which it recomputes on an annual basis the required revenue for recovery through the rate rider and the resulting rates. [Tr. p. 96, line 22-p. 97, line 3.] The Company then will reflect those revenue requirements in an annual report filed with the Commission in January following the close of the Program Year. [Tr. p. 97, lines 3-4.] Consistent with existing practice as established by Order No. 2012-30 and amended by Order No. 2013-147, parties who wish to intervene must petition to do so by February 28. ORS and any intervenors then must file comments on the annual report no later than April 1. [Tr. p. 97, lines 4-8.] Then, after consideration of the Company's proposal and the parties' comments, the appropriate adjustment to the rate rider would be made effective beginning with the first billing cycle in May. [Tr. p. 97, lines 8-11].

No party has challenged or objected to the Company's proposal with respect to the annual filing requirements. The Commission previously found in Order No. 2010-472 that it is reasonable and in the public interest that SCE&G present this data to the Commission on an annual basis. SCE&G, therefore, is directed to continue making annual DSM filings in accordance with the existing procedure as set forth above.

VI. Energy Efficiency Advisory Group.

Currently, the Company has established an energy efficiency advisory group (the “Advisory Group”) as required by Order No. 2010-472. The Advisory Group consists of ORS and SCE&G, a representative from the Southern Environmental Law Center/CCL, a representative from the South Carolina Small Business Chamber of Commerce, and a representative each from the low-income and industrial sectors. Ms. Webb testified that the Advisory Group “serves to ensure that the DSM programs are structured and operated in the most efficient and effective manner possible.” [Tr. p. 23, lines 4-5.] She also testified that, consistent with Order No. 2010-472, the Advisory Group met three times during the first program year, two times during the second program year, and already has met two times during the current program year. [Tr. p. 23, lines 5-8.]

No party has challenged the establishment of the Advisory Group. In fact, Ms. Mims testified that SACE/CCL “propose to work with the Company and other stakeholders to schedule time within future DSM Advisory Group meetings where members may present information for discussion and consideration by the Advisory Group.” [Tr. p. 173, lines 20-23.] She also suggests various issues in her testimony for consideration by the Advisory Group. [Tr. p. 173, lines 18-20.]

The Commission finds that the Advisory Group is reasonable and in the public interest and directs SCE&G to maintain and continue the Advisory Group as it has been established and implemented. In accordance with the terms of the General Settlement Agreement filed in Docket No. 2009-261-E and Order No. 2010-472, the Advisory Group should continue to meet at least two times per year to consider and make

recommendations to SCE&G with respect to efficiency potential studies, new program ideas, modifications to existing programs, outreach and education programs and funding, and EM&V plans.

VII. Commercial and Industrial Customer Opt Outs.

Consistent with Order No. 2010-472 (at p. 18), any industrial customer with certain Standard Industrial Classification or North American Industry Classification codes may opt out of SCE&G's DSM programs and the associated charges established under the rate rider. Specifically, customers classified in the major industrial group of manufacturing with 1-14 or 20-39 as the first two digits of the Standard Industrial Classification ("SIC") or 21 or 31-33 as the first two digits of the six digit North American Industry Classification ("NAIC") may opt out of the DSM programs. [Tr. p. 98, lines 1-6.] The customer opts out by filing a request in writing with the Company and stating that it "already has or will be implementing alternative DSM and energy efficiency measures." [Tr. p. 97, lines 15-18.] If a customer opts in to the DSM programs after having previously opted out, it must remain in those programs for at least five years from the date the customer accepts the DSM rebate from the Company. [Tr. p. 36, lines 10-13.]

The Settling Parties propose to maintain this opt-out provision for industrial customers and, in addition, to allow opt outs by non-residential accounts that have both (i) annual consumption of 1 million kWh or greater in the billing months of the prior calendar year and (ii) "52-59" as the first two digits of their SIC or "44-45" as the first two digits of their six digit NAIC. [Sett. Agmt. ¶ 4.a.]

SACE/CCL proposes to modify the opt-out provisions to require customers seeking to opt out to certify that they have implemented or will implement specific DSM/energy efficiency measures and to have the expected demand or energy savings certified by a professional engineer. [Tr. p. 199, line 16-p. 200, line 1.] The Company then would be required to file copies of these certifications with the Commission as part of its annual filing. [Tr. p. 200, lines 4-5.] SACE/CCL proposes that the threshold level of opt-out eligibility be redetermined in collaboration with the Advisory Group. [Tr. p. 200, lines 5-11.] However, SCE&G witness Jackson testified that Ms. Mims' proposal does not establish how it would increase demand and energy savings and that it instead adds another element of cost to the existing DSM program costs, which the Company expects will increase. [Tr. p. 109, line 7-p. 110, line 4.] Moreover, Ms. Mims acknowledged that, in her experience, the workload of many energy managers for industrial customers is often overwhelming. [Tr. p. 231, lines 10-14]. Mr. Jackson also noted that the industrial customers seek a simple opt-out provision. [Tr. p. 110, lines 5-6.] This Commission previously found that, "[b]y making the procedure for opting out simple and easy to administer for both the customers and SCE&G, it will support business retention and economic development." Order No. 2010-472, p. 19. Moreover, as noted in the previous proceeding, the opt-out provisions in place are in accord with other opt-out provisions approved by this Commission. Order No. 2010-472, p. 19. Further, no evidence was presented at the hearing that those customers who have opted out have failed to implement specific DSM or energy efficiency measures. Mr. Jackson testified that SCE&G is informed by its industrial customers of whether they are

expanding their plants and implementing conservation measures to reduce consumption. [Tr. p. 158, lines 6-16].

Based on the evidence in this proceeding and the Commission's precedent, we find that SCE&G's industrial and commercial customers as specified above should be allowed to opt out of SCE&G's DSM programs and charges as set forth in the Settlement Agreement. The Commission rejects the proposal of SACE/CCL, finding that it will add additional layers of cost and complexity without any demonstrated demand and energy savings and, as such, reduces much of the simplicity of the opt-out mechanism found to be beneficial in the previous proceeding.

VIII. Review Period.

The Settling Parties agree that the Company should be allowed to continue the DSM programs for six years after the date of this Order. [Sett. Agmt. ¶ 5.] After the six-year time period has elapsed, any party may request a review of the terms and conditions of the rate rider mechanism and propose changes. [Sett. Agmt. ¶ 5.] During the review, the DSM rate rider mechanism and the programs shall remain in effect until further order of the Commission revising the terms of the DSM rate rider or programs or taking such other action as the Commission may deem appropriate. [Sett. Agmt. ¶ 5.] No party opposed authorizing the extension of the DSM rate rider and programs for six years from the date of the Commission's order in this proceeding.

The Commission finds it reasonable, in the public interest, and in accordance with law and regulatory policy to continue the DSM programs for six years after the date of this Order and that, after the six-year time period has elapsed, any party may request a

review of the terms and conditions of the rate rider mechanism and propose changes to the rate rider mechanism. Although we do adopt the six-year review period as agreed upon by the Settling parties, we must emphasize that this Commission retains the ability to review the terms and conditions of the DSM rate rider mechanism and associated matters at any time. It is important for programs to be designed and implemented in a way that allows all ratepayers the opportunity to participate in the potential savings offered by the Company's programs. Otherwise, there is a concern about the potential adverse impact of rate increases, especially to low-income ratepayers and renters, as a result of the future application of the Company's proposals.

IT IS THEREFORE ORDERED THAT:

1. SCE&G's Application in this proceeding, as amended by the Settlement Agreement, is hereby approved.

2. The Settlement Agreement, attached hereto as Order Exhibit No. 1, is incorporated herein by reference and is found to be a reasonable resolution of the issues in this case and is in the public interest, and therefore is adopted and approved.

3. The Commission approves the tariff sheet submitted as Hearing Exhibit No. 3 (KRJ-1) as modified and directs the Company to update the tariff consistent with the Settlement Agreement and this Order. After it is updated, the tariff sheet should be electronically filed in a text searchable PDF format using the Commission's Document Management System ("DMS") (<http://dms/psc.sc.gov>). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commissions ETariff System (<http://etariff.psc.sc.gov>). Future revisions to the tariff should be made using the ETariff

System. The tariff shall be consistent with the findings of this Order and the Settlement Agreement. The Commission directs the Company to update and file the tariff sheet within ten days of receipt of this Order.

4. SCE&G is authorized to
 - a. recover the actual program costs associated with developing, implementing, and administering its DSM programs and to amortize those costs over five years with unrecovered balances bearing carrying costs at the Company's weighted average cost of capital;
 - b. recover the net lost revenue resulting from the programs limited to a rolling three-year period;
 - c. collect a shared savings incentive equal to 6% multiplied by the estimated net benefits of each energy efficiency program calculated using the Utility Cost Test, while providing customers the remaining 94% of the program net benefits, and to amortize the incentive over five years without interest or carrying costs added to the calculation of the annual rate rider.

5. SCE&G is authorized to continue the operation and maintenance of a DSM account in which it may defer DSM costs until further order of the Commission.

6. SCE&G's DSM programs, as approved herein, shall continue for six years after the date of this Order and that after the six-year time period has elapsed, any party may request a review of the terms and conditions of the DSM rate rider mechanism and propose changes to the mechanism. However, the Commission retains the ability to

review the terms and conditions of the DSM rate rider mechanism and associated matters at any time.

7. SCE&G will continue to file an annual report in January of each year as directed in Order No. 2010-472 and as most recently restated in Order No. 2013-266, and will continue to do so in each subsequent January through the life of the DSM programs. The Company is directed to true up recovery of net lost revenue and shared savings incentive as required by the actual experience of operating the DSM programs and recompute on an annual basis the required revenue for recovery through the rate rider and the resulting rates based on the preceding program year beginning on December 1 and ending on November 30 and reflect those revenue requirements in this annual report. Consistent with the procedure presently established by Order No. 2012-300, as amended by Order No. 2013-147, parties wishing to intervene would be required to file petitions to intervene by February 28 of each year, and ORS and other intervenors would be required to file comments on the Company's Application, if any, no later than April 1 of each year. The appropriate adjustment to the rate rider, determined after consideration of the Company's proposal and the parties' comments, would be made effective beginning with bills rendered on and after the first billing cycle in May.

8. The Company is authorized to modify, amend, terminate, or add any measure or program to its suite of programs without the requirement of seeking prior Commission approval; however, the Company should timely report such changes to the Commission, and include the information in the Company's annual report to the Commission and ORS.

9. Qualifying industrial and commercial customers may opt out of SCE&G's DSM programs in accordance with the terms and definitions set forth in this Order and the Settlement Agreement. Current opt-out notifications presently in effect for industrial customers will remain in effect under the reauthorization of the rate rider. An industrial or commercial customer that opts in to the DSM programs must remain in the programs for a minimum of five years from the date the customer accepts the DSM rebate from the Company.

10. The SACE/CCL made many recommendations that may be of merit, and the Company is encouraged to review them. The Company should include in its 2014 annual update a description of how the SACE/CCL recommendations have been taken into consideration. This Commission certainly encourages all of the parties to this Docket to continue the present spirit of cooperation displayed in this case.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


G. O'Neal Hamilton, Chairman

ATTEST:


Nikiya Hall, Vice Chairman

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2013-208-E

October 2/, 2013

IN RE: Application of South Carolina Electric & Gas)	SETTLEMENT
Company for Approval to Continue Demand-)	AGREEMENT
Side Management Programs and Included)	
Rate Rider, and for Approval of Revised)	
Portfolio of Energy Efficiency Programs)	

This Settlement Agreement ("Settlement Agreement") is made by and among Wal-Mart Stores, East, LP and Sam's East, Inc. ("Walmart"); South Carolina Electric & Gas Company ("SCE&G" or the "Company"); the South Carolina Energy Users Committee ("SCEUC"); and the South Carolina Office of Regulatory Staff ("ORS") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, the Company has prepared and filed an Application for Approval to Continue Demand Side Management Programs with no change in the DSM rate rider and approval of a revised portfolio of Energy Efficiency DSM Programs.

WHEREAS, S.C. Code Ann. § 58-37-20 states:

The South Carolina Public Service Commission may adopt procedures that encourage electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to invest in cost-effective energy efficient technologies and energy conservation programs. If adopted, these procedures must: provide incentives and cost recovery for energy suppliers and distributors who invest in energy supply and end-use technologies that are cost-effective, environmentally acceptable, and reduce energy consumption or demand; allow energy suppliers and distributors to recover costs and obtain a reasonable rate of return on their investment in qualified demand-side management programs sufficient to make these programs at least as financially attractive as construction of new generating facilities; require the Public Service Commission to

establish rates and charges that ensure that the net income of an electrical or gas utility regulated by the commission after implementation of specific cost-effective energy conservation measures is at least as high as the net income would have been if the energy conservation measures had not been implemented.

WHEREAS, the Parties to this Settlement Agreement are parties of record in the above-captioned docket;

WHEREAS, the Parties have engaged in discussions to determine if a Settlement Agreement would be in their best interest, and in the case of ORS, in the public interest;

WHEREAS, following these discussions the Parties have each determined that their interest and the public interest would be best served by agreeing to request approval of the Application as amended below and to other matters in the above-captioned case under the terms and conditions set forth below in this Settlement Agreement; and

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1. **Stipulated Testimony.** The Parties agree to stipulate into the record before the Commission the pre-filed testimony and exhibits (collectively, the "Stipulated Testimony") of the following witnesses without objection, change, amendment or cross-examination with the exception of changes comparable to those that would be presented via an errata sheet or through a witness noting a correction consistent with this Settlement Agreement. The Parties also reserve the right to engage in redirect examination of witnesses as necessary to respond to issues raised by the examination of their witnesses, if any, by non-Parties or members of the Commission, or by late-filed testimony by non-Parties.

SCE&G witnesses:

1. Kenneth R. Jackson (Direct and Rebuttal Testimony)
2. David K. Pickles (Direct and Rebuttal Testimony)
3. Angie H. Webb (Direct Testimony)

Walmart witness:
Kenneth. E. Baker (Direct Testimony)

SCEUC witness
Kevin O'Donnell (Direct Testimony)

ORS witness:
George W. Evans (Direct Testimony)

2. **Revised Portfolio of DSM Energy Efficiency Programs.** The Parties agree that the revised portfolio of DSM Energy Efficiency programs filed by SCE&G should be approved as filed in the Application. Consistent with Commission Order No. 2010-472, the Parties agree that SCE&G will retain the authority and flexibility to modify, amend, terminate and/or add any measure or program to its suite of programs without the requirement of seeking prior Commission approval to do so. All such modifications or changes will be reported annually to the Commission and ORS as part of the annual review filings. Further, SCE&G agrees to review additional DSM Energy Efficiency Programs that are designed specifically for low-income participants.

3. **The DSM Rate Rider Mechanism.**

- a. **Program Costs.** The Parties agree that SCE&G shall be allowed to defer and amortize into the rate rider calculation all prudently incurred costs for the programs over five (5) years with carrying costs at the Company's weighted average cost of capital.
- b. **Net Lost Revenues.** The Parties agree that recovery of net lost revenues through the rate rider shall continue as set forth in Commission Order No. 2010-472, except that recovery of net lost revenues through the rate rider shall

be limited to a rolling three (3) years. Recovery of net lost revenues pertaining to a group of measures adopted by customers in prior program years shall cease upon the implementation of new retail electric rates in a general rate case proceeding to the extent that those new rates explicitly or implicitly allow the Company to recover the net lost revenues associated with the implementation of those measures in those prior periods.

- c. **Shared Savings Incentive.** The Parties agree that the procedure for the shared savings incentive as set forth in Commission Order No. 2010-472 shall continue and that the Shared Savings Incentive shall be amortized over a five (5) year period.

4. **Opt-out Procedure.** The Parties agree that the procedure to opt out of the DSM Rate Rider as set forth in Commission Order No. 2010-472 shall continue, subject to the following revisions and clarifications:

- a. In addition to those accounts eligible to opt out under Commission Order No. 2010-472, non-residential accounts that have both (i) annual consumption of 1,000,000 kilowatt-hours (kWh) or greater in the billing months of the prior calendar year and (ii) 52-59 as the first two digits of their Standard Industrial Classification or 44-45 as the first two digits of their six digit North American Industry Classification System are eligible to opt-out of the DSM Rate Rider.
- b. If a customer elects to opt out an eligible non-residential account, all other non-residential accounts which are billed to the same customer and located on the same or contiguous properties are also eligible for the opt-out.

- c. Non-residential accounts that are already opted out under the procedures set forth in Commission Order No. 2010-472 may remain opted out, and the customer need not provide a new opt-out notice to the Company for these accounts.
- d. Any non-residential account that has elected to participate in a demand-side management or energy efficiency measure or program prior to the effective date of the Commission Order in this proceeding or that elects to participate in a demand-side management or energy efficiency measure or program after the effective date of the Commission Order in this proceeding may not opt out for five (5) years from the date that the customer accepts the DSM rebate from the Company.

5. **Review Period.** The Parties agree that SCE&G's annual DSM Rate Rider shall be determined according to this Settlement Agreement. Any party may request a review of the terms and conditions of the DSM Rate Rider mechanism and may submit any proposed changes to the Commission for approval after six (6) years have elapsed from the date of the order approving this Settlement Agreement. During the review, the DSM Rate Rider mechanism and the programs shall remain in effect until further order of the Commission revising the terms of the DSM Rate Rider mechanism or programs or taking such other action as the Commission may deem appropriate.

6. The Parties agree that this Settlement Agreement is reasonable, in the public interest and in accordance with law and regulatory policy.

7. ORS is charged with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (Supp. 2012). S.C. Code § 58-4-10(B)(1) through (3) reads in part as follows:

... 'public interest' means a balancing of the following:

- (1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;
- (2) economic development and job attraction and retention in South Carolina; and
- (3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

8. The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding, and to take no action inconsistent with its adoption by the Commission.

9. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission in its entirety. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

10. This written Settlement Agreement contains the complete agreement of the Parties. There are no other terms and conditions to which the Parties have agreed. The Parties agree that this Settlement Agreement will not constrain, inhibit or impair their arguments or positions held in future proceedings, nor will the Settlement Agreement or any of the matters agreed to in it be used as evidence or precedent in any future proceeding. If the Commission

should decline to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement without penalty.

11. This Settlement Agreement shall be interpreted according to South Carolina law.

12. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement, by affixing its signature or by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any Party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

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A handwritten signature in black ink, appearing to read "Derrick Price Williamson", written over a horizontal line.

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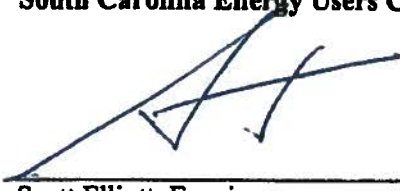
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South Carolina Energy Users Committee

A handwritten signature in blue ink, appearing to be 'Scott Elliott', written over a horizontal line.

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Representing South Carolina Electric & Gas Company

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